

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JACKIE A. DUNCAN,)
vs. Plaintiff,) NO. CIV-16-0876-HE
GRADY COUNTY JAIL ADMIN., *et al.*,)
Defendants.)

ORDER

Plaintiff Jackie A. Duncan, appearing *pro se*, filed this § 1983 action alleging violations of his constitutional rights. The matter was referred for initial proceedings to Magistrate Judge Bernard M. Jones, consistent with 28 U.S.C. § 636(b)(1)(B) and (C). He has recommended that the action be dismissed without prejudice due to plaintiff's failure to comply with his orders to cure deficiencies relating to his *in forma pauperis* ("ifp") application, despite being given additional time within which to do so. The magistrate noted in his Report and Recommendation that plaintiff has not requested an extension of time or demonstrated good cause for his failure to comply with the court's orders,¹ but has been advised that a failure to cure the deficiencies could result in the dismissal of the action without prejudice.

Plaintiff did not object to the magistrate judge's Report and Recommendation and

¹ Plaintiff had alleged in response to one of the magistrate judge's orders that he had been prevented from including the required financial information with his ifp application because there was "no inmate trust office" where he was incarcerated. The magistrate judge noted in the Report and Recommendation that plaintiff's allegations were wholly conclusory and he had "been given the opportunity to explain his plight more thoroughly or identify additional steps he ha[d] taken to attempt to comply with the Court's Orders, but ha[d] failed to respond further." Doc. #11, p. 3.

thereby waived his right to appellate review of the factual and legal issues it addressed.

Casanova v. Ulibarri, 595 F.3d 1120, 1123 (10th Cir. 2010); *see* 28 U.S.C. §636(b)(1)(C).

Accordingly, the court **ADOPTS** Magistrate Judge Jones's Report and Recommendation and **DISMISSES** this action without prejudice. Plaintiff's application for leave to proceed *in forma pauperis* [Doc. #8] and his motion to appoint counsel [Doc. #3] are **DENIED** as **MOOT**.

IT IS SO ORDERED.

Dated this 7th day of November, 2016.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE